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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/686,531	10/16/2003	Gerald Duhamel	P1017US01	4017

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LABTRONIX CONCEPT
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EXAMINER

HYLINSKI, STEVEN J

ART UNIT	PAPER NUMBER
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3714

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/686,531	Applicant(s) DUHAMEL ET AL.	
	Examiner STEVEN J. HYLINSKI	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 September 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 44-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 44-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Gentles provides the same inventive concept as the instant invention, which is a system that accommodates base and bonus game play in a gaming system over a network, in which the game data related to the base and bonus games and their outcomes are encapsulated, and then the encapsulated representations of the data must be subsequently analyzed and decoded. Applicant argues that Gentles does not provide enough information about bonus game play to construe Gentles' as sending the base and bonus game information in the same variable-size data structure. However, the claims do not specify that the "variable-size data structure" is such as a single packet that contains base and, if required, bonus game data in the same singular structure. The claim language encompasses a variable-size data structure that is comprised of multiple packets, the multiple packets constituting the variable-size nature of the structure among these packets being base and bonus game data and outcomes.

Figs 8 and 10 of Gentles specifically show a base game being conducted, and if a bonus game is triggered, subsequently playing a bonus game, and adding credits from plays of both the base and bonus games. Paragraphs 53, 54 and 167 disclose that the purpose of Gentles is to encapsulate data for game and bonus game play, and the game outcomes, such that it is secure when sent over a network. Specifically, tunneling the data involves packetizing the data. The fact that Gentles discloses the packetized, tunneled data can include the software, data, and outcomes for base and bonus game play, in light of the fact that Gentles shows in Figs 8 and 10 that a single gaming

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session can have both base and bonus game play, is sufficient to anticipate the claims as-presented.

In Paragraph 179, Gentles discloses that “In some case, the gaming software/data may be compiled by the servers and may, therefore be gaming terminal independent. When properly authenticated by a gaming terminal configured to receive encrypted etc. game data files (resulting from compiling the gaming software/data), the game data files can direct the gaming terminal to execute the corresponding game and operate the associated devices.”

Gentles' variable-sized, packetized data structure is thus compiled specifically to instruct the machine that receives the data structure on how to carry out the game. the game including a bonus game with bonus pay triggered from a base game, all in a single gaming session as shown in Figs. 8 and 10 as discussed above. Gentles' system is consistent with the functionality and purpose of the instant invention.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. **Claims 44-46 are rejected under 35 U.S.C. 102(e) as being anticipated by US 2004/0266533 to Gentles et al.**

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Re Claim 44,

Gentles discloses a method of playing an electronic game comprising the steps of on a gaming terminal, receiving from a player a play request for play of an electronic game (as shown in Fig. 1, player **40** can utilize the gaming terminal(s) **12**, using the access control apparatus **25**), communicating the play request to a server and receiving from a server an encapsulated variable-size data structure in response to said play request (Paragraphs 53-54, encapsulated game data is sent over network **20** from the gaming server **28** to gaming machines **22**, where the encapsulated data must subsequently be analyzed, ie. decoded. Fig. 10 shows that a value input being detected in block **1002** initiates the game, which as disclosed in Paragraph 179 can be fed to the gaming machine from servers. Paragraph 179 specifically discloses that the servers can compile the gaming software and/or data independently, to direct the game on each gaming machine); the encapsulated variable-size data structure having an outcome value (Paragraph 179 discloses that the gaming software and data compiled specifically by a server to direct the execution of the gaming machine, executes the game and can control the currency device. This gaming data used to instruct the gaming machine and output device can include "electronic transfer of funds" and "game outcomes for systems having central determination".) analyzing the content of the encapsulated variable-size data structure, for therefore identifying data representative of a play of a primary outcome, and if present data representative of a play of a secondary outcome (Paragraph 54 discloses that the encapsulated game data sent through the secure tunnel from the server to the gaming terminal can include the game outcomes in

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addition to game software and data, this data being used to direct a gaming machine how to execute a game as disclosed in Paragraph 179. Figs. 8 and 10 show that a primary game as used in Gentles' system can trigger a secondary (bonus) game within the same instance of gaming, the secondary game having a distinct outcome that may be added to the player's credits which will be paid out.), providing a play sequence in correlation with the data representative of the play of the primary outcome and a primary outcome value (Figs. 8 and 10); if data representative of the play of a secondary outcome is present, providing a subsequent play sequence for each secondary outcome each providing a secondary outcome value (Figs 8 and 10 show a gaming sequence that can be carried out by Gentles system using encapsulated game data, software, and outcomes to direct a gaming machine to execute the game, as discussed in Paragraphs 53-54 and 179); and providing the sum of primary and secondary outcome values to the player, the primary and secondary outcome values summing up to the outcome value (Figs. 8 and 10, the player is paid after playing the base and any bonus game, and after winning any base and bonus credits credited to the player).

Re Claim 45,

Gentles discloses a game representation comprising a representation of a primary outcome value in relation with said play sequence provided for said primary outcome value (Fig. 10, after the reels are spun, it is evaluated in block **1012** whether any wins exist according to the payable, and if so, crediting the player based on the payable). Gentles also discloses modifying the game representation between the

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representation of the primary outcome value and if any secondary outcome value, a representation of the secondary outcome (Block **1016** shows that a bonus game *may* be triggered, which can have a “win per bonus game” in block **1020** and subsequently, credits added based on the payable (block **1022**). Finally Gentles discloses when any secondary outcome value occurs, providing the modified game representation in relation with said play sequence provided for the secondary outcome value (block **1018**, the bonus game is played if triggered).

Re Claim 46,

See the rejection of claim 44 above. Additionally, Fig. 10 of Gentles shows that the bonus game, as dependent on the base game that triggered it, can have the base and bonus games provided in sequence (Fig. 10).

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to STEVEN J. HYLINSKI whose telephone number is (571)270-1995. The examiner can normally be reached on M-Thurs. 7:00a-5:30p.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hotaling can be reached on 571-272-4437. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John M Hotaling II/
Supervisory Patent Examiner, Art Unit 3714

/Steven J Hylinski/
Examiner, Art Unit 3714